

Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following bill, which was referred to the Committee on _____.

To authorize and provide for the issuance of revenue bonds under Section 490 of the District of Columbia Home Rule Act; the authorization of the District of Columbia Public Service Commission ("Commission") to issue financing orders, upon application, that provide for: (i) financing of the costs of constructing underground conduits, ducts, manholes, vaults and ancillary facilities for electric distribution in the District of Columbia ("District"), and associated roadway restoration; (ii) creating a vested, presently-existing property right in favor of the District in, among other things, the future revenue stream raised through the imposition of a charge on the electric company's District customers; (iii) authorizing the District to hold this property right and to pledge the same as security for its repayment obligations to bond purchasers; and (iv) authorizing the District, to provide funding from the bond proceeds to the District Department of Transportation ("DDOT") to finance construction of underground conduits, duct banks, manholes, vaults and ancillary facilities for electric distribution in the District, together with associated roadway restoration; the authorization of the Commission to issue orders, upon application, that provide for the: (i) selection and construction of underground electric distribution and ancillary facilities in the District; (ii) imposition and periodic true-up of a special funding surcharge mechanism under which the electric company is to be permitted to recover from certain of its customers in the District the capital costs and associated depreciation and other expense relating to relocating and otherwise installing electric distribution line and equipment and ancillary facilities into underground conduits, duct banks, manholes and vaults constructed by DDOT or the electric company; and (iii) imposition by the Commission and periodic true-up of a special financing surcharge applicable to certain of the electric company's customers in the District to fund the repayment of bonds issued by the District to finance the construction by the DDOT of underground conduits, vaults, manholes and ancillary facilities to be used in the distribution of electricity in the District.

1 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
2 act may be cited as the “Electric Company Infrastructure Improvement Financing Act of 2013”.

3 TITLE I. DEFINITIONS AND FINDINGS

4 Sec. 101. Definitions.

5 For the purpose of this act, the term:

6 (1) “Ancillary agreement” means any bond insurance policy, letter of credit,
7 reserve account, surety bond, swap arrangement, hedging arrangement, liquidity or credit support
8 arrangement or other similar arrangement designed to promote the credit quality and
9 marketability of the bonds or to mitigate the risk of an increase in interest rates.

10 (2) “Authorized Delegate” means any one of the following: the City
11 Administrator, the Chief Financial Officer, the Treasurer, the Deputy Mayor for Planning and
12 Economic Development, and any officer or employee of the executive office of the Mayor to
13 whom the Mayor has delegated any of the Mayor’s functions under this act pursuant to section
14 422(6) of the Home Rule Act and who has been designated as an authorized delegate for
15 purposes of this act.

16 (3) “Bonds” means the revenue bonds, notes, or other obligations (including
17 refunding bonds, notes, and other obligations), in one or more series, authorized to be issued
18 pursuant to this act.

19 (4) “Bond Counsel” means a firm or firms of attorneys designated as bond
20 counsel from time to time by the Mayor

21 (5) “Chief Financial Officer” means the Chief Financial Officer of the
22 District.

1 (6) “Closing Documents” means all documents and agreements other than
2 financing documents that may be necessary and appropriate to issue, sell, and deliver the bonds
3 contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts,
4 and other similar instruments.

5 (7) “Commission” means the Public Service Commission of the District of
6 Columbia as it may be constituted from time to time and any successor agency exercising the
7 same or similar functions.

8 (8) “Debt Service” means payment of principal, premium, if any, and interest
9 on the bonds.

10 (9) “District” means the District of Columbia.

11 (10) "DDOT" means the District Department of Transportation.

12 (11) “DDOT Underground Electric Company Infrastructure Improvements”
13 means underground conduits and duct banks, electrical vaults, manholes, transformer pads, and
14 similar facilities, including facilities ancillary to the foregoing, designed by the electric company,
15 constructed or to be constructed by DDOT and transferred to, owned and maintained by the electric
16 company after certain inspections and approvals by the electric company for the exclusive use of the
17 electric company in the distribution of electricity within the District.

18 (12) "DDOT Underground Electric Company Infrastructure Improvement
19 Activity" means the civil engineering for and the construction and installation of DDOT
20 Underground Electric Company Infrastructure Improvements.

21 (13) “DDOT Underground Electric Company Infrastructure Improvement
22 Annual Revenue Requirement” means that amount of revenue required by the District to pay the

1 financing costs, to fund any required reserves with respect to such bonds and to maintain any
2 coverage ratios required by the financing documents.

3 (14) “DDOT Underground Electric Company Infrastructure Improvement
4 Charge” means a non-bypassable, adjusting surcharge, which surcharge shall be adjusted
5 periodically, as set forth in the pertinent financing order, collected by the electric company in an
6 agency capacity and paid by certain customers of the electric company pursuant to a financing order
7 issued by the Commission for the payment of financing costs of bonds issued by the District
8 pursuant to this act and the cost of the Commission’s financial advisor, which surcharge shall be
9 calculated to ensure timely recovery of amounts sufficient to provide timely payment of the
10 scheduled principal of and interest on the pertinent bonds and all other financing costs contemplated
11 by the financing order, whether or not the DDOT Underground Electric Company Infrastructure
12 Improvements are constructed.

13 (15) “DDOT Underground Electric Company Infrastructure Improvement Costs”
14 means any cost incurred by DDOT, including capitalized costs relating to underground electric
15 plant, capitalized costs associated with design and engineering work, expenses that DDOT may
16 incur for the development of annual construction plans, and other expenses incurred or expected to
17 be incurred by or for the account of DDOT in undertaking DDOT Underground Electric Company
18 Infrastructure Improvement Activity, including preliminary expenses and investments and other
19 costs that reasonably may be incurred in support of the DDOT Underground Electric Company
20 Infrastructure Improvement Activity.

21 (16) “DDOT Underground Electric Company Infrastructure Improvement Fund”
22 means the fund established by section 201 of this act.

1 (17) “DDOT Underground Electric Company Infrastructure Improvement
2 Property” means the property rights and interests created in the District pursuant to this Act and
3 the pertinent financing order, including, without limitation, the right, title, and interest in and to
4 (a) the DDOT Underground Infrastructure Improvement Charges, as the same may adjusted from
5 time to time in accordance with procedures established in the pertinent financing order; (b) all
6 revenues, collections, claims, payments, money, or proceeds of or arising from the DDOT
7 Underground Infrastructure Improvement Charges including DDOT Underground Electric
8 Company Infrastructure Improvement Revenue or constituting DDOT Underground
9 Infrastructure Improvement Charges, regardless of whether such revenues, collections, claims,
10 payments, money, or proceeds are billed, received, collected or maintained together with or
11 commingled with other revenues, collections, claims, payments, money or proceeds; and (c) all
12 rights to obtain adjustments to the DDOT Underground Infrastructure Improvement Charges.

13 (18) “DDOT Underground Electric Company Infrastructure Improvement
14 Revenue” means the aggregation of receipts, collections, payments, moneys, claims, or other
15 proceeds derived from DDOT Underground Electric Company Infrastructure Improvement
16 Charges.

17 (19) “Electric company” shall have the meaning set forth in in the 15th
18 unnumbered paragraph, beginning “The term “electric company””, of section 8(1) of An Act
19 Making appropriations to provide for the expenses of the government of the District of Columbia
20 for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes,
21 approved March 4, 1913 ([37 Stat. 976](#); D.C. Official Code §34-207) and as used herein shall mean
22 Potomac Electric Power Company and its permitted successors and assigns.

1 (20) “Electric Company Infrastructure Improvements” means underground
2 electrical cable, fuses, switches, transformers, and ancillary facilities, including above-ground pad-
3 mounted transformers, and other equipment including the electric company’s portion of conduit not
4 included in DDOT Underground Electric Company Infrastructure Improvements that is required in
5 conjunction with constructing and operating new underground facilities used for the distribution of
6 electricity, but does not include the construction of new underground electric plant when the costs
7 associated with the construction and operation of such underground electric plant, including capital
8 costs, are to be recovered through rates, as approved by the Commission pursuant to paragraph 94
9 of section 8(1) of An Act Making appropriations to provide for the expenses of the government
10 of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and
11 fourteen, and for other purposes, approved March 4, 1913 ([37 Stat. 994](#); D.C. Official Code §34-
12 901) and not through the DDOT Underground Electric Company Infrastructure Improvement
13 Charges or Underground Project Charges.

14 (21) “Electric Company Infrastructure Improvement Activity” means the civil
15 and electrical engineering for, and acquisition, construction and installation of, Electric Company
16 Infrastructure Improvements and the removal of overhead electric distribution facilities no longer
17 used and useful in providing electric distribution service in the District due to the construction of
18 Electric Company Infrastructure Improvements.

19 (22) “Electric Company Infrastructure Improvement Costs” means any costs
20 incurred by the electric company, including the amortization of regulatory assets and capitalized
21 costs relating to electric plant including depreciation expense, design and engineering work
22 incurred or expected to be incurred by the electric company in undertaking Electric Company
23 Infrastructure Improvement Activity, and the unrecovered value of electric company property that is

1 retired, together with any demolition or similar cost that exceeds the salvage value of the property.

2 The term includes preliminary expenses and investments associated with Electric Company

3 Infrastructure Improvement Activity that are incurred by the electric company prior to receipt of an

4 order applicable to costs incurred with respect to such Electric Company Infrastructure

5 Improvement Activity in addition to expenses that may be incurred for development of annual

6 construction plans, customer communication and other expenses that may develop in support of the

7 Electric Company Infrastructure Improvement Activity.

8 (23) “Electric Company Infrastructure Improvement Revenue” means the

9 aggregation of receipts, collections, payments, moneys, claims, or other proceeds derived from

10 Underground Project Charges.

11 (24) “Electric Plant” shall have the meaning set forth in the 14th unnumbered

12 paragraph, beginning “The term “electric plant”, of section 8(1) of An Act Making

13 appropriations to provide for the expenses of the government of the District of Columbia for the

14 fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved

15 March 4, 1913 ([37 Stat. 975](#); D.C. Official Code §34-206).

16 (25) “Financial Advisor” means an entity whose services are retained by the

17 Commission to assist the Commission in the issuance, amendment, or administration of a financing

18 order.

19 (24) “Financing Costs” means the costs to issue, service, repay, or refinance

20 bonds issued under this Act, whether incurred upon issuance of or over the life of such bonds,

21 and approved for recovery in the pertinent financing order. Without limitation, “Financing

22 Costs” may include, as applicable, any of the following:

23 (a) Debt service on bonds;

1 (b) Any payment required under an ancillary agreement and any amount required to fund or
2 replenish a debt service reserve account or other account established under any indenture, trust
3 agreement, ancillary agreement or other financing document relating to the bonds;

4 (c) Any federal, state or local taxes, payments in lieu of taxes, franchise fees or license fees
5 imposed on DDOT Underground Electric Company Infrastructure Improvement Revenues; and

6 (d) Any cost related to issuing the bonds, administering and servicing DDOT Underground
7 Electric Company Infrastructure Improvement Property and the bonds, including, without
8 limitation, costs of calculating adjustments of the DDOT Underground Electric Company
9 Infrastructure Improvement Charge, servicing fees and expenses, trustee fees and expenses, legal
10 fees and expenses, accounting fees and expenses, administrative fees and expenses, placement
11 fees, underwriting fees, fees and expenses of the District's or the Commission's advisors and
12 outside counsel, if any, rating agency fees and any other related cost.

13 (27) "Financing Documents" means the documents other than closing documents
14 that relate to the financing or refinancing of transactions to be affected through the issuance, sale,
15 and delivery of the bonds, including any required collection agreement, indenture, offering
16 document, ancillary agreement, and any required supplements to any such documents.

17 (28) "Financing Order" means an order of the Commission pursuant to this act
18 that grants, in whole or in part, an application filed pursuant to this act by the electric company and
19 that, among its other provisions, authorizes the creation of the DDOT Underground Electric
20 Company Infrastructure Improvement Property and the imposition and periodic true-up of DDOT
21 Underground Electric Company Infrastructure Improvement Charges.

22 (29) "Home Rule Act" means the District of Columbia Home Rule Act, approved
23 December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

1 (30) “Indenture” means the trust indentures (including a master trust indenture
2 and any supplemental trust indenture) pursuant to which one or more series of the bonds are issued
3 pursuant to this act.

4 (31) “Lateral Feeder” means a 1-kV to 35-kV (phase-to-phase) line tapped off of
5 a distribution mainline primary feeder for supplying loads. Such feeders may be protected by a fuse
6 at the interconnection point to the mainline primary feeder, and may have one phase, two phases, or
7 three phases.

8 (32) “Mainline Primary Feeder” means a 1-kV to 35-kV (phase-to-phase)
9 distribution line originating at the substation distribution bus that supplies lateral feeders and
10 distribution transformers that convert voltage to customer service levels. Such feeders are normally
11 three-phase circuits.

12 (33) “Mayor” means the Mayor of the District of Columbia or an Authorized
13 Delegate.

14 (34) “Ongoing financing costs” means financing costs that are not upfront
15 financing costs and any upfront financing costs not paid from the proceeds of bonds.

16 (35) “OPC” means the Office of the People’s Counsel for the District of
17 Columbia and any successor thereto.

18 (36) “Secondary Feeder” means the portion of an electric distribution circuit
19 originating at the low-voltage secondary winding of a distribution transformer and transmitting
20 power at customer service voltage levels to interconnect with a customer service drop line. Such
21 feeders have voltages less than 1000 V, often 480/277 V, 208/120 V, or 120/240 V and can be
22 single phase or three phase.

1 (37) “Servicing Agreement” means an agreement between the District and the
2 electric company relating to the collection and remittance of the DDOT Underground Electric
3 Company Infrastructure Improvement Revenue.

4 (38) “Trustee” means a trustee under any indenture.

5 (39) “Underground Infrastructure Improvement Projects Plan” means a
6 construction plan prepared by DDOT and the electric company that identifies DDOT Underground
7 Electric Company Infrastructure Improvement Activity and the Electric Company Infrastructure
8 Improvement Activity to be undertaken.

9 (40) “Underground Project Charge” means an annually adjusting surcharge paid
10 by certain customers of the electric company for its recovery of the Electric Company Infrastructure
11 Improvement Costs, together with the electric company’s rate of return as approved by the
12 Commission.

13 (41) “Upfront financing costs” means the expenses associated with the
14 structuring, marketing, and issuance of the Bonds, including, but not limited to, the funding of
15 one or more debt service reserve funds, but not including scheduled debt service or other
16 ongoing financing costs to the extent such ongoing financing costs are payable from DDOT
17 Underground Electric Company Infrastructure Improvement Revenue.

18 Sec. 102. Declaration of public purpose.

19 (a) Global climate change has increased the frequency and severity of
20 destructive weather patterns. Accordingly, electric power distribution service in the District of
21 Columbia is vulnerable to equipment failures on the overhead electric distribution system of the
22 electric company for many reasons, including high winds, flooding, lightning strikes, snow and
23 ice accumulations, foreign contact between overhead equipment and animals, trees and other

1 objects, and for other causes. In the past, this damage has caused the loss of electric power over
2 extended time periods to residential and commercial customers, which damage and power loss have
3 created economic losses for the District and its citizens, including critical infrastructure customers
4 and other high priority users of electricity, and it can be expected that similar outages on the electric
5 company's overhead distribution system will continue to occur, absent additional intensified outage
6 prevention measures.

7 (b) Electric system modernization is necessary to establish 21st Century electric
8 distribution systems to promote the public interest through increased system reliability, resiliency,
9 reliability, and flexibility during all types of weather events including major storms. The frequency
10 of electric power outages within the District can be expected to decrease when overhead power lines
11 in vulnerable locations are relocated underground. Consequently, selectively undergrounding
12 certain overhead power lines can be expected to increase system reliability and reduce the
13 economic, social and other impacts on the District's electricity users caused by repeated power
14 outages.

15 (c) Section 490 of the Home Rule Act provides that the Council may by act authorize
16 the issuance of District bonds to borrow money to finance, refinance, or reimburse and to assist in
17 the financing, refinancing, or reimbursing of the cost of capital projects or undertakings (including
18 utility facilities) that will contribute to the health, welfare, or safety of residents of the District as
19 determined by the Council.

20 (d) The authorization, issuance, sale, and delivery of securitized bonds, the proceeds
21 of which shall be used by DDOT to finance the construction of certain underground facilities that
22 will be used by the electric company in connection with undergrounding particularly vulnerable
23 electric power lines and their ancillary facilities, thus contributing to the health, welfare, and

safety of residents of the District, are in the public interest and will accomplish the purposes and intent of section 490 of the Home Rule Act.

TITLE II. ISSUANCE OF BONDS; SECURITY INTEREST IN DDOT
UNDERGROUND ELECTRIC COMPANY INFRASTRUCTURE IMPROVEMENT
REVENUE

Sec. 201. Creation of the DDOT Underground Electric Company Infrastructure Improvement Fund.

(a) There is established a special non-lapsing fund which shall be separate and apart from the General Fund of the District to be denominated as the “DDOT Underground Electric Company Infrastructure Improvement Fund”.

(b) The DDOT Underground Electric Company Infrastructure Improvement Revenue will be collected by the electric company acting as agent in accordance with the servicing agreement and remitted to the trustee (or to a fund or account designated by the financing documents) for application by the trustee in accordance with this act and the indenture. Any and all DDOT Underground Electric Company Infrastructure Improvement Revenue collected, or to be collected, by the electric company, or any affiliate or agent thereof, shall upon receipt by the electric company or any affiliate or agent, as the case may be, be held in trust for the benefit of the trustee and shall be deemed collected and transferred to the trustee in accordance with this act and the servicing agreement. Any and all DDOT Underground Electric Company Infrastructure Improvement Revenue so collected, wherever held or deposited and whether having been remitted to the trustee or not, shall automatically be pledged at the time of receipt to the repayment of the bonds pursuant to this act and the indenture. The electric company shall have no rights in or to the DDOT Underground Electric Company Infrastructure Improvement Revenue. The sole

responsibility of the electric company shall be to act in an agency capacity for the collection of the DDOT Underground Electric Company Infrastructure Improvement Revenue and to remit the DDOT Underground Electric Company Infrastructure Improvement Revenue to a trustee in accordance with the servicing agreement. In the event of the electric company's failure to collect and remit the DDOT Underground Electric Company Infrastructure Improvement Revenue to the trustee the District may remove the electric company under and in accordance with the servicing agreement, but the District shall have no recourse against the assets of the electric company. The electric company shall have no responsibility with respect to the DDOT Underground Electric Company Infrastructure Improvement Revenue after remittance to the trustee in accordance with the servicing agreement.

(c) The Commission's financing order(s) shall provide that the electric company shall collect and remit to the trustee payments received by the electric company for the DDOT Underground Electric Company Infrastructure Improvement Revenue promptly following receipt of such payment in accordance with the servicing agreement. The DDOT Underground Electric Company Infrastructure Improvement Revenue is pledged pursuant to section 203(b) of this act to pay the debt service on and retirement of the bonds without further action by the Council, as permitted by section 490(f) of the Home Rule Act, which security interest shall attach at the time of receipt of the DDOT Underground Electric Company Infrastructure Improvement Revenue by the electric company.

(d) The trustee shall receive, hold and invest the DDOT Underground Electric Company Infrastructure Improvement Revenue and shall deposit all such revenues upon receipt into the DDOT Underground Electric Company Infrastructure Improvement Fund to be held, invested and used as specified in the financing documents and this act.

(e) All amounts deposited in the DDOT Underground Electric Company Infrastructure Improvement Fund, plus all investments or earnings on those amounts, are irrevocably dedicated and pledged to the payment of debt service on the bonds and other financing costs as provided in this act.

(f) If, at the end of any fiscal year of the District following the issuance of the bonds authorized by this act, the value of cash and investments in the DDOT Underground Electric Company Infrastructure Improvement Fund exceeds the amount of all payments authorized by this act and the financing documents, including required and discretionary deposits into reserve funds, amounts to be set aside for additional series of bonds issued under this act, and any coverage requirements required by the indenture, during the upcoming fiscal year, the excess shall be used in accordance with the provisions of the pertinent financing order.

Sec. 202. Bond authorization.

(a) The Council approves and authorizes the issuance of one or more series of bonds in a total principal amount not to exceed \$375,000,000. The bonds, which may be issued at any time and from time to time during the ten (10) year period immediately following enactment hereof, in one or more series, shall be tax-exempt or taxable as the Mayor shall determine and shall be payable and secured as provided in section 203 of this act.

(b) The proceeds of the bonds shall be used:

(1) To pay the upfront financing costs relating to issuing and delivering the bonds, including, but not limited to, the Commission's costs of retaining a financial advisor, and

(2) To pay or reimburse DDOT Underground Electric Company Infrastructure Improvement Costs; provided, however, that no bond proceeds shall be provided to DDOT

pursuant to this act until the Commission shall have first approved the Underground Infrastructure Improvement Projects Plan.

(c) The aggregate principal amount of the bonds issued in connection with financing DDOT Underground Electric Company Infrastructure Improvement Activity shall not, at any time, exceed the total planned cost of the portion of the DDOT Underground Electric Company Infrastructure Improvement Activity and the upfront financing costs approved in the pertinent financing order.

(d) By December 31 of each year during which the bonds authorized by this act have been issued and continuing until the net proceeds of the bonds have been fully disbursed, DDOT shall file with the Commission an accounting report depicting DDOT's cumulative receipt of bond proceeds during the previous fiscal year and DDOT's cumulative expenditures of those proceeds.

Sec. 203. Payment and security.

(a) Except as may be otherwise specifically provided in this act, debt service on the bonds shall be payable solely from proceeds received from the sale of the bonds, income realized from the temporary investment of those proceeds, DDOT Underground Electric Company Infrastructure Improvement Revenue, income realized from the temporary investment of the DDOT Underground Electric Company Infrastructure Improvement Revenue prior to payment to the bond holders, and other moneys that, as provided in the financing documents, may be made available for payment of the bonds from sources other than the District or the electric company, all as provided for in the financing documents.

(b) The DDOT Underground Electric Company Infrastructure Improvement Revenue is irrevocably pledged as security for the repayment of the bonds and any financing costs.

1 Payment of the bonds shall be secured as provided in this act and the financing documents and by
2 an assignment by the District of certain of its rights under the financing documents and closing
3 documents to the trustee for the benefit of the bond holders.

4 (c) The trustee is authorized to deposit, invest, and disburse the proceeds received from
5 the sale of the bonds pursuant to the financing documents.

6 Sec. 204. Bond details.

7 (a) The Mayor is authorized to take any action reasonably necessary or appropriate in
8 accordance with this act in connection with the preparation, execution, issuance, sale, delivery,
9 security for, and payment of the bonds of each series, including, but not limited to, determinations
10 of:

11 (1) The final form, content, designation, and terms of the bonds, including a
12 determination that such bonds may be issued in certificated or book-entry form;

13 (2) The principal amount of the bonds to be issued and denominations of the
14 bonds;

15 (3) The rate or rates of interest or the method for determining the rate or rates of
16 interest on the bonds;

17 (4) The date or dates of issuance, sale, and delivery of, and the payment of
18 interest on the bonds, and the maturity date or dates of such bonds;

19 (5) The terms under which the bonds may be paid, optionally or mandatorily
20 redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before
21 their respective stated maturities;

22 (6) Provisions for the registration, transfer, and exchange of the bonds and the
23 replacement of mutilated, lost, stolen, or destroyed bonds;

1 (7) The creation of any reserve fund, sinking fund, or other fund with respect to
2 the bonds;

3 (8) The time and place of payment of interest on the bonds and for repayment of
4 the bonds;

5 (9) Procedures for monitoring the use of the proceeds received from the sale of
6 the bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of
7 the Home Rule Act and this act, a copy of which shall be provided to the Commission;

8 (10) Actions necessary to qualify the bonds under blue sky laws of any
9 jurisdiction where the bonds are marketed; and

10 (11) The terms and types of credit enhancement under which the bonds may be
11 secured.

12 (b) The bonds shall contain a legend which shall provide that the bonds do not constitute
13 an indebtedness of the District, that the bonds are not general obligations of the District and are not
14 secured by the faith and credit or the taxing power of the District. The legend shall further state that
15 the bonds are special limited obligations of the District payable solely from the revenues derived
16 from the collection of DDOT Underground Electric Company Infrastructure Improvement Revenue.
17 The legend shall also state that the bonds do not constitute lending of the public credit for private
18 undertakings, as prohibited in section 602(a)(2) of the Home Rule Act.

19 (c) The bonds shall be executed in the name of the District and on its behalf by the
20 manual or facsimile signature of the Mayor and attested by the secretary of the District by the
21 secretary's manual or facsimile signature.

22 (d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or
23 otherwise reproduced on the bonds.

1 (e) The bonds of any series may be issued in accordance with the terms of an indenture
2 to be entered into by the District and a trustee to be selected by the Mayor, and may be subject to the
3 terms of one or more agreements entered into by the District pursuant to section 490(a) (4) of the
4 Home Rule Act.

5 (f) The bonds may be issued at any time or from time to time during the 10 year period
6 specified in Section 202(a) of this act in one or more issues and in one or more series.

7 (g) The bonds are declared to be issued for essential public and governmental
8 purposes. The bonds and the interest thereon and the income there from, and all monies pledged
9 or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation
10 by the District, except for estate, inheritance, and gift taxes.

11 (h) The District covenants and agrees that it will not limit or alter the DDOT
12 Underground Electric Company Infrastructure Improvement Revenue pledged to secure the
13 bonds or the basis on which the DDOT Underground Electric Company Infrastructure
14 Improvement Revenue is collected or allocated, will not take any action to impair the
15 contractual obligations of the District to fulfill the terms of any agreement made with the holders
16 of the bonds, and will not in any way impair the rights or remedies of the holders of the bonds,
17 until the bonds, together with interest thereon, and all costs and expenses in connection with any
18 suit, action or proceeding by or on behalf of the holders of the bonds, are fully met and
19 discharged. This covenant and agreement of the District shall be included as part of the contract
20 between the District and the holders of the bonds.

21 (i) This act constitutes a contract between the District and the holders of the bonds.
22 To the extent that any acts or resolutions of the Council now or hereafter may be in conflict with
23 this act, this act shall be controlling.

1 (j) The Commission is prohibited from taking any action, whether by rulemaking,
2 order, or otherwise, that would reduce the DDOT Underground Electric Company Infrastructure
3 Improvement Revenue collected each year below the amount required to ensure the timely
4 recovery of the financing costs associated with the financing or refinancing of the bonds issued
5 pursuant to this act and the financing order, including the costs of issuing, servicing, and retiring
6 such bonds; provided, however, that the Commission may periodically adjust the DDOT
7 Underground Electric Company Infrastructure Improvement Charge pursuant to the financing
8 order and section 314 in order to remedy any imbalance, attributable to over-collection or under-
9 collection of DDOT Underground Electric Company Infrastructure Improvement Revenue. To
10 the extent that any Commission action affecting or purporting to affect DDOT Underground
11 Electric Company Infrastructure Improvement Revenue may be in conflict with this act, this act
12 shall be controlling.

13 (k) Consistent with section 490(a)(4)(B) of the Home Rule Act and notwithstanding
14 D.C. Official Code § 28:9-101 *et seq.*:

15 (1) Upon the effective date of the pertinent financing order, there is hereby
16 granted a first priority statutory lien to the trustee for the benefit of the holders of the bonds on
17 all DDOT Underground Electric Company Infrastructure Improvement Property then existing or
18 thereafter arising pursuant to the terms of such financing order;

19 (2) A pledge made and security interest granted in the DDOT Underground
20 Electric Company Infrastructure Improvement Property created in respect of the bonds or
21 pursuant to any related financing document shall be valid, binding, and perfected from the time
22 the security interest is created, with or without physical delivery of any funds or any property
23 and with or without any further action;

1 (3) The lien of the pledge shall be valid, binding and perfected as against all
2 parties having any claim of any kind in tort, contract or otherwise against the District, whether
3 or not such party has notice; and

4 (4) The security interest shall be valid, binding and perfected whether or not
5 any statement, document or instrument relating to the security interest is recorded or filed.

6 Sec. 205. Sale of the bonds.

7 (a) The bonds of any series may be sold at negotiated or competitive sale at, above, or
8 below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the
9 best interest of the District.

10 (b) The Mayor may execute offering documents in connection with each sale of the
11 bonds, may deem final any such offering document for purposes of compliance with federal laws
12 and regulations governing such matters and may authorize the distribution of the documents in
13 connection with the bonds being sold.

14 (c) The Mayor is authorized to deliver the executed and sealed bonds for authentication,
15 and, after the bonds have been authenticated, to deliver the Bonds to the original purchasers of the
16 bonds upon payment of the purchase price.

17 (d) The bonds shall not be issued until the Mayor receives an approving opinion from
18 bond counsel as to the validity of the bonds of such series and, if the interest on the bonds is
19 expected to be exempt from federal income taxation, the treatment of the interest on the bonds for
20 purposes of federal income taxation.

21 (e) The District of Columbia Procurement Practices Reform Act of 2010, effective
22 April 8, 2011 (D.C. Law § 18-723; D.C. Official Code § 2-351.01 et seq.) and subchapter III-A
23 of Chapter 3 of Title 47 of the District of Columbia Official Code shall not apply to any contract

1 the Mayor may from time to time enter into, or the Mayor may determine to be necessary or
2 appropriate, for purposes of this act.

3 Sec. 206. Financing and closing documents.

4 (a) The Mayor is authorized to prescribe the final form and content of all financing
5 documents and all closing documents that may be necessary or appropriate to issue, sell, and deliver
6 the bonds.

7 (b) The Mayor is authorized to execute the financing documents and any closing
8 documents by the Mayor's manual or facsimile signature.

9 (c) The Mayor's execution and delivery of the financing documents and the closing
10 documents to which the District is a party shall constitute conclusive evidence of the Mayor's
11 approval of the final form and content of the executed financing documents and the executed
12 closing documents.

13 (d) The Mayor is authorized to deliver the executed and sealed financing documents and
14 closing documents prior to or simultaneously with the issuance, sale, and delivery of the bonds, and
15 to ensure the due performance of the obligations contained in the executed, sealed, and delivered
16 financing documents and closing documents.

17 Sec. 207. Bonds not District liability.

18 (a) The bonds shall not constitute an indebtedness of the District. The bonds are not
19 general obligations of the District and are not secured by a pledge of or involve the faith and credit
20 or the taxing power of the District. The bonds are the special limited obligations of the District
21 payable solely from the DDOT Underground Electric Company Infrastructure Improvement
22 Property. Nothing contained in the bonds, or in the related financing documents and closing
23 documents, shall create an obligation on the part of the District to make payments with respect to

1 the bonds from sources other than the DDOT Underground Electric Company Infrastructure
2 Improvement Revenue. The bonds do not constitute lending of the public credit for private
3 undertakings as prohibited in section 602(a)(2) of the Home Rule Act. The bonds shall contain the
4 legend required by section 204(b) of this act.

5 (b) No person, including, but not limited to any bondholder, shall have any claims
6 against the District or any of its elected or appointed officials, officers, employees, or agents for
7 monetary damages suffered as a result of the failure of the District to perform any covenant,
8 undertaking, or obligation under this act, the bonds, the financing documents, or the closing
9 documents, nor as a result of the incorrectness of any representation in or omission from the
10 financing documents or the closing documents.

11 (c) The District and the electric company shall take such actions as may be reasonably
12 necessary so that the bonds are not treated as debt on the electric company's books and records
13 under United States Generally Accepted Accounting Principles or by a major United States rating
14 agency, and the Commission shall not take any action or issue any order that may have a contrary
15 effect. Nothing contained in this act shall obligate the electric company to take any action or execute
16 any document that would have the effect of causing the bonds to be treated as debt on the electric
17 company's books and records under United States Generally Accepted Accounting Principles or by
18 a major United States Rating Agency.

19 Sec. 208. Legal investment.

20 The bonds shall be legal instruments in which public officers and public bodies of the
21 District, insurance companies, insurance company associations, and other persons carrying on an
22 insurance business, banks, bankers, banking institutions including savings and loan associations,
23 building and loan associations, trust companies, and other persons carrying on a banking business,

1 administrators, guardians, executors, trustees and other fiduciaries, and other persons authorized to
2 invest in bonds or other obligations of the District, may legally invest funds, including capital, in
3 their control. The bonds are also securities which legally may be deposited with and received by
4 public officers and public bodies of the District or any agency of the District for any purpose for
5 which deposit of bonds or other obligations of the District is authorized by law.

6 Sec. 209. DDOT Underground Electric Company Infrastructure Improvement Property.

7 (a) Upon the effective date of the financing order, the DDOT Underground Electric
8 Company Infrastructure Improvement Property created thereby shall constitute an existing,
9 present property right of the District. The District's property right in the DDOT Underground
10 Electric Company Infrastructure Improvement Revenue shall not be affected by the fact that the
11 collection and remittance to the trustee of DDOT Underground Electric Company Infrastructure
12 Improvement Charges by the electric company, in an agency capacity in accordance with the
13 servicing agreement, depends on the electric company continuing to provide electric distribution
14 services to customers in the District or continuing to perform servicing functions relating to the
15 collection of DDOT Underground Electric Company Infrastructure Improvement Charges.
16 DDOT Underground Electric Company Infrastructure Improvement Property shall exist whether
17 or not the DDOT Underground Electric Company Infrastructure Improvement Charges have
18 been billed, have accrued or have been collected and notwithstanding the fact that the value or
19 amount of the DDOT Underground Electric Company Infrastructure Improvement Revenue may
20 be dependent on the electric company's provision of future service to its customers.

21 (b) All DDOT Underground Electric Company Infrastructure Improvement Charges
22 shall continue to be collected until the bonds have been paid in full and financing costs related to
23 the bonds have been paid in full.

1 (c) All or any portion of the DDOT Underground Electric Company Infrastructure
2 Improvement Property may be transferred or assigned by the District for the limited purpose of
3 pledging the same as security for the repayment of bonds issued to provide financing for the
4 DDOT Underground Electric Company Infrastructure Improvement Activities and other
5 financing costs authorized by this act and approved in the pertinent financing order. All the
6 DDOT Underground Electric Company Infrastructure Improvement Property is pledged for the
7 repayment of such bonds or payment of financing costs. Any transfer, sale, conveyance,
8 assignment, or grant of security interest in or pledge of DDOT Underground Electric Company
9 Infrastructure Improvement Property shall not require authorization from the Commission.

10 (d) If the electric company defaults on any required remittance of DDOT
11 Underground Electric Company Infrastructure Improvement Revenue to the trustee, a court,
12 upon application of an interested party and without limiting any other remedies available to the
13 applying party, shall order the sequestration of the DDOT Underground Electric Company
14 Infrastructure Improvement Revenue with a trustee selected by the District for the benefit of the
15 District and the bondholders and any financing parties. The court's order shall remain in full
16 force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceeding
17 with respect to the electric company or any affiliate thereof.

18 (e) The DDOT Underground Electric Company Infrastructure Improvement Revenue
19 and the interests of the District, the bondholders, of any financing party therein are not subject to
20 setoff, counterclaim, surcharge, or defense by the electric company, any affiliate thereof, or any
21 other person or in connection with the bankruptcy, reorganization, or other insolvency
22 proceeding of the electric company, any affiliate thereof, or any other entity.

1 (f) Any successor to the electric company shall be bound by the requirements of this
2 section and shall perform and satisfy all obligations of, and have the same rights and obligations
3 as, the electric company under the financing order and this act in the same manner and to the
4 same extent as the electric company, including, without limitation, the obligation to collect the
5 DDOT Underground Electric Company Infrastructure Improvement Revenue and remit such
6 revenue to the trustee.

7 Sec. 210. District's interest in DDOT Underground Electric Company Infrastructure
8 Improvement Property.

9 The District's property ownership interest in the DDOT Underground Electric Company
10 Infrastructure Property shall be effective and perfected against all third parties and is not affected
11 or impaired by, among other things, the occurrence of any one or more of the following:

12 (1) Comingling of DDOT Underground Electric Company Infrastructure
13 Improvement Charges or DDOT Underground Electric Company Infrastructure Improvement
14 Revenue with other amounts;

15 (2) Any recourse that the electric company may have against the District;

16 (3) The obligation of the electric company acting in an agency capacity in
17 accordance with the servicing agreement to collect DDOT Underground Electric Company
18 Infrastructure Improvement Revenue and to remit the DDOT Underground Electric Company
19 Infrastructure Improvement Revenue so collected to the trustee; and

20 (4) Any subsequent order of the Commission amending the financing order
21 pursuant to this act.

22 Sec. 211. Exemption from District taxes.

1 The imposition, collection, and receipt of DDOT Underground Electric Company
2 Infrastructure Improvement Charges are not subject to taxation by the District.

3 Sec. 212. Bonds not electric company liability.

4 The bonds shall not constitute an indebtedness of the electric company.

5 TITLE III. COMMISSION AUTHORIZATIONS

6 SUBTITLE A. FINANCING ORDERS.

7 Sec. 301. Commission authorizations.

8 (a) The Commission is authorized to issue and shall issue financing orders upon
9 application by the electric company. All financing orders, among their other provisions, shall:

10 (1) Specify the maximum amount of bonds which are authorized for issuance, such
11 amount not to exceed the limitations set forth in this act, including such maturities, scheduled
12 maturities, interest rates or interest rate determination methods and other details of the bonds as
13 the Commission finds appropriate;

14 (2) Describe the DDOT Underground Electric Infrastructure Improvement
15 Activities to be paid through the issuance of the bonds and recovered through DDOT
16 Underground Electric Company Infrastructure Improvement Charges;

17 (3) Specify the qualitative or quantitative limitations on financing costs to be
18 recovered (not to impair the ability to pay and service the bonds in accordance with their terms);

19 (4) Assess DDOT Underground Electric Company Infrastructure Improvement
20 Charges among the distribution service customer classes of the electric company in accordance
21 with the distribution service customer class cost allocations approved by the Commission for the
22 electric company and in effect pursuant to the most recent base rate case as of the effective date
23 of this act; provided, however, that no such charges shall be assessed against the electric

1 company's residential aid discount customer class or any succeeding customer class approved by
2 the Commission for the purpose of providing economic relief to a specified low income customer
3 class. DDOT Underground Electric Company Infrastructure Improvement Charges shall be
4 billed to customers by the electric company as a volumetric surcharge;

5 (5) Describe the true up mechanism to reconcile actual collections of DDOT
6 Underground Electric Company Infrastructure Improvement Charges with forecasted collection
7 on at least an annual basis to ensure that the collections of DDOT Underground Electric
8 Company Infrastructure Improvement Charges are adequate to pay debt service on the associated
9 bonds when due pursuant to the expected amortization schedule, to fund all debt service reserve
10 accounts to the required levels and to pay when due all other expected ongoing financing costs as
11 provided in section 314;

12 (6) Authorize the creation of the DDOT Underground Electric Company
13 Infrastructure Improvement Property;

14 (7) Authorize the imposition, billing and collection of DDOT Underground
15 Electric Company Infrastructure Improvement Charges to pay debt service on the bonds and
16 other ongoing financing costs;

17 (8) Describe the DDOT Underground Electric Company Infrastructure
18 Improvement Property that will be created and that may be used to pay and secure the payment
19 of the debt service of the bonds and other ongoing financing costs;

20 (9) Authorize the execution and delivery of one or more servicing or collection
21 agreements with the applicant electric company, including, without limitation, provisions for
22 fixing the servicing fee, arrangements for an alternate servicer of the DDOT Underground
23 Electric Company Infrastructure Improvement Charges, requiring the electric company to

1 collect and remit the resulting DDOT Underground Electric Company Infrastructure
2 Improvement Charges in its entirety to the trustee, as provided in section 201 of this act, and
3 requiring that any successor to the electric company, whether pursuant to any reorganization,
4 bankruptcy, or other insolvency proceeding, or whether pursuant to any merger or acquisition,
5 sale or other business combination, or transfer by operation of law, as a result of utility
6 restructuring or otherwise, shall perform and satisfy all obligations of the electric company under
7 the servicing agreement and the pertinent financing order in the same manner and to the same
8 extent as the electric company, including collecting and paying to the person entitled to receive
9 the revenues, collections, payments, or proceeds of the DDOT Underground Electric Company
10 Infrastructure Improvement Charges;

11 (10) Prescribe the filing of billing and collection reports relating to the DDOT
12 Underground Electric Company Infrastructure Improvement Charges; and

13 (11) Consistent with this act, contain such other findings, determinations and
14 authorizations as the Commission shall deem appropriate.

15
16 (b) All financing orders shall be operative and in full force and effect from the time
17 fixed for them to become effective by the Commission.

18 (c) The financing order shall provide that except to implement any true-up
19 mechanism as provided in section 314, the Commission may not amend, modify, or terminate the
20 financing order by any subsequent action or reduce, impair, postpone, terminate, or otherwise
21 adjust the DDOT Underground Electric Company Infrastructure Improvement Charges approved
22 in the financing order.

23 Sec. 302. Application for financing order.

1 Within 60 days from the effective date of this act, the District shall provide the electric
2 company with estimates of the DDOT Underground Electric Company Infrastructure
3 Improvement Annual Revenue Requirements that will enable the District to pay the debt service
4 and other financing costs associated with bonds issued pursuant to this act and such other
5 information as may be in the possession of the District as may be necessary or reasonably
6 desirable to submit an application for a financing order. For good cause, the electric company
7 and the District mutually may agree upon a later date of delivery and shall jointly inform the
8 Commission of such agreement. Within 30 days of the receipt of such estimates and
9 information, the electric company shall file for the Commission's consideration and decision, an
10 application for a financing order with respect to the repayment of bonds for DDOT Underground
11 Electric Company Infrastructure Improvement Activities to be funded pursuant to this act. The
12 financing order application, and all subsequent applications by the electric company for a
13 financing order, shall contain the following content:

14 (a) A statement from the District containing a description of the bond issue or issues,
15 including principal amount(s), expected financing costs, expected interest rate(s), forecasted
16 average term and retirement schedule, and estimates of the DDOT Underground Electric
17 Company Infrastructure Improvement Annual Revenue Requirements that will enable the
18 District to pay the debt service and financing costs associated with bonds issued pursuant to this
19 act;

20 (b) A calculation by the electric company of the estimated DDOT Underground
21 Electric Company Infrastructure Improvement Charges, the level of the expected charge by
22 distribution service customer class, and the calculated amount estimated to be sufficient to

1 generate an amount at least equal to the DDOT Underground Electric Company Infrastructure
2 Improvement Annual Revenue Requirement as provided by the District;

3 (c) A proposed form of the servicing agreement between the District, the electric
4 company and the Trustee;

5 (d) The proposed methodology for allocating DDOT Underground Electric Company
6 Infrastructure Improvement Charges among the electric company's distribution service customer
7 classes subject to that allocation; and

8 (e) A proposed form of public notice of the application suitable for publication by the
9 Commission.

10
11 Sec. 303. Consideration of applications: financing order.

12 (a) Public notice. Before deciding upon an application for a financing order , the
13 Commission shall first publish notice to the public of the application and provide for a period of
14 no less than 14 days for public comment and filing of motions to intervene. The electric
15 company shall provide notice of the application to its customers in the District as provided in
16 paragraph 39 of section 8 of An Act Making appropriations to provide for the expenses of the
17 government of the District of Columbia for the fiscal year ending June thirtieth, nineteen
18 hundred and fourteen, and for other purposes, approved March 4, 1913 ([37 Stat. 983](#); D.C.
19 Official Code § 34-909) as that section may be hereafter amended or superseded.

20 (1) OPC, DDOT and the District shall be a party to the Commission
21 proceeding on the application, as a matter of right.

22 (2) Any other person desiring to be heard on the application shall file a
23 motion to intervene with the Commission requesting to be made a party to the proceeding. The

1 applicant and any party to the proceeding may file an answer to support or oppose the granting of
2 such motions. The Commission shall, by order, approve or deny the motion at its reasonable
3 discretion.

4 (b) Commission decision. The Commission shall decide upon an application for a
5 financing order based upon the pleadings in the matter and, if no protest or objections are filed in
6 response to the Commission's public notice of the application then, at its discretion, without a
7 hearing. A formal evidentiary hearing shall only be required if contested issues of material fact
8 are present and those issues cannot be resolved by the Commission on the basis of the pleadings
9 and discovery responses, if any, filed in the record of the matter. In its decision, the Commission
10 may approve, approve with conditions, modify or reject the application in whole or in part, as it
11 deems necessary and appropriate.

12 (c) Basis for Commission decision. The Commission is authorized to issue a
13 financing order if the Commission finds that the DDOT Underground Electric Company
14 Infrastructure Improvement Charges are just and reasonable.

15 (d) Issuance advice letter. The District shall file an issuance advice letter with the
16 Commission by 5:00 pm on the next business day after the sale of bonds authorized by the
17 Commission pursuant to a financing order. Such issuance advice letter shall describe the DDOT
18 Underground Electric Company Infrastructure Improvement Annual Revenue Requirement for
19 the bonds issued pursuant to the financing order, and the average term and retirement schedules.
20 Based on the information provided in the issuance advice letter, in the event the DDOT
21 Underground Electric Company Infrastructure Improvement Annual Revenue is less than the
22 estimated DDOT Underground Electric Company Infrastructure Improvement Annual Revenue

1 Requirement contained in the related financing order, the Commission shall adjust the DDOT
2 Underground Electric Company Infrastructure Improvement Charges.

3 (e) Effective billing date under financing order. No DDOT Underground Electric
4 Company Infrastructure Improvement Charges authorized by the Commission in a financing
5 order shall be billed by the electric company to customers prior to issuance of bonds by the
6 District pursuant to title II of this act.

7 (f) Expedition. The Commission shall expedite its consideration of applications for
8 financing orders. The Commission shall issue its decision on the electric company's application
9 no later than 60 days following closing of the period for public comment upon the application;
10 provided, however, that if a protest or objection to the application is timely filed with the
11 Commission and can be resolved without an evidentiary hearing, this period for the
12 Commission's decision is extended by an additional 15 days. The computation of this time may
13 be tolled, at the Commission's reasonable discretion, for periods in which it determines the
14 electric company's application is deficient. In the event that an evidentiary hearing is required,
15 the Commission shall issue a decision no more than 60 days following the close of the hearing
16 record.

17 (g) Financial advisor. The Commission is authorized to retain the services of a
18 financial advisor to assist in its consideration of an application for a financing order, and in the
19 formulation and administration of a financing order. The fees of the financial advisor in a
20 reasonable amount shall be paid by the District from bond proceeds, but the District shall have
21 no responsibility for payments to the financial advisor from any other source. Invoices by the
22 financial advisor for such payments shall be tendered through the Commission, which shall
23 verify the content of the invoice before forwarding the invoice to the District for payment.

1 Payments made to the Financial Advisor for these services are deemed to be DDOT
2 Underground Electric Company Infrastructure Improvement Costs. Funds for payments to the
3 financial advisor by the Commission are to be sourced in a similar manner as other DDOT
4 Underground Electric Company Infrastructure Improvement Costs.

5
6 Sec. 304. Irrevocability of financing order.

7 A financing order is irrevocable and the Commission may not reduce, impair, or
8 terminate the DDOT Underground Electric Company Infrastructure Improvement Property
9 approved in the financing order or impair the collection or recovery of the DDOT Underground
10 Electric Company Infrastructure Improvement Charges or DDOT Underground Electric
11 Company Infrastructure Improvement Revenue until the bonds issued pursuant to this act and the
12 pertinent financing order have been paid in full.

13
14 Sec. 305. Effect of financing order.

15 (a) A financing order shall remain in effect until the bonds have been paid in full and
16 all financing costs relating to the bonds have been paid in full.

17 (b) A financing order shall remain in effect and unabated notwithstanding the
18 bankruptcy, reorganization, or insolvency of the electric company or any affiliate thereof or the
19 commencement of any judicial or nonjudicial proceeding therefore.

20 (c) For so long as the bonds are outstanding and the related DDOT Underground
21 Electric Company Infrastructure Improvement Costs and the related financing costs have not
22 been paid in full, the DDOT Underground Electric Company Infrastructure Improvement Charge
23 shall be non-bypassable and shall apply to all of the electric company's customers located within

1 the District and receiving electric distribution service, other than members of the electric
2 company's residential aid discount customer class or any succeeding discount customer class.

3 Sec. 306. Limitation on Commission action.

4 If the Commission issues a financing order, the Commission in the exercise of its powers
5 and carrying out its duties, may not thereafter do any of the following:

6 (a) Consider the bonds described in the financing order to be the debt of the electric
7 company;

8 (b) Consider the DDOT Underground Electric Company Infrastructure Improvement
9 Charges approved in the financing order to be revenue of the electric company or the property or
10 an asset of the electric company, nor the payment of such collections to the trustee to be an
11 expense of the electric company; or

12 (c) Consider the DDOT Underground Electric Company Infrastructure Improvement
13 Costs or the financing or other costs incurred by the District in connection with bonds issued
14 under this act to be an obligation of the electric company or to be costs included in the cost of
15 service of the electric company.

16 SUBTITLE B. SELECTION AND CONSTRUCTION OF UNDERGROUND
17 INFRASTRUCTURE IMPROVEMENT PROJECTS.

18 Sec. 307. Underground infrastructure improvement projects plan.

19 (a) Within 45 days of the effective date of this act, and no later than September 30,
20 2016, September 30, 2019, and September 30, 2022, the electric company and DDOT shall
21 jointly file with the Commission and concurrently serve upon the OPC an application for
22 approval of their triennial Underground Infrastructure Improvement Projects Plan.

1 (b) The electric company and DDOT shall file, no later than September 30 of each
2 year in which an application for approval of a triennial Underground Infrastructure
3 Improvements Project Plan is not filed, a status report on the completion during the previous year
4 and scheduled completion during the next year of Electric Company Infrastructure Improvement
5 Activity contained in the current triennial Underground Infrastructure Improvement Projects Plan
6 or an amendment to an Underground Infrastructure Improvements Project Plan as approved by
7 the Commission pursuant to section 310.

8 (c) As part of the initial application for approval of the triennial Underground
9 Infrastructure Improvement Projects Plan pursuant to subsection (a), the electric company shall
10 request authority to impose and collect specified Underground Project Charges from its electric
11 distribution service customers to recover the Electric Company Infrastructure Improvement
12 Costs associated with the Underground Infrastructure Improvement Projects Plan.

13 Sec. 308. Content of application and plan.

14 An application to the Commission by the electric company and DDOT for approval of the
15 triennial Underground Infrastructure Improvement Projects Plan shall include the following:

16 (a) Ranking reliability performance of individual feeders.

17 (1) A measurement and ranking of the reliability performance of each of the
18 electric company's overhead and combined overhead-underground mainline primary and lateral
19 feeders in the District over the preceding three years, using the primary selection criteria set forth
20 in subsection (b); and

21 (2) On the basis of the foregoing rankings, an identification of the electric
22 company's recommended selection of mainline primary and lateral feeders that will utilize
23 DDOT Underground Electric Company Infrastructure Improvements identified in the plan.

(b) Primary selection criteria. With respect to all sustained interruptions (inclusive of major service outages and District major event days) occurring on each overhead and combined overhead-underground mainline primary and lateral feeder circuits in the District, the most recent three calendar years average of the following, weighted equally:

- (1) Number of outages per feeder;
- (2) Duration of the outages occurring on the feeder; and
- (3) Customer minutes of interruption on the feeder.

(c) Additional content to be included in the plan by the electric company. In addition to the measurements, rankings and selections as required by subsection (b) of this section, the Underground Infrastructure Improvements Projects Plan shall include for each mainline primary and lateral feeder recommended by the electric company to be placed underground an identification and description of the:

- (1) Feeder number;
- (2) Feeder location(s) (by street address, ward, and neighborhoods);
- (3) Overhead electrical cables, fuses, switches, transformers, and ancillary equipment, including poles, to be relocated underground or removed;
- (4) Overhead primary and lateral feeders that are currently located parallel to the selected primary and lateral feeders that the electric company recommends to be placed underground;
- (5) Overhead secondary feeder circuits and ancillary facilities, and telecommunications and cable television cables and ancillary aboveground equipment, including poles, that will not be relocated underground or removed;

(6) Proposed Electric Company Infrastructure Improvements and DDOT Underground Electric Company Infrastructure Improvements funded by DDOT Underground Electric Company Infrastructure Improvement Charges;

(7) New distribution automation devices and segmentation capability to be obtained thereby;

(8) Interties that will enable the feeder to receive power from multiple directions or sources;

(9) Capability to meet current load and future load projections;

(10) Estimated construction duration and projected in-service date. Within 90 days after the Underground Infrastructure Improvements Projects Plan is approved by the Commission, the electric company and DDOT shall identify the estimated start date and projected end date for each project approved in the plan. In determining the construction start date and projected construction end date, the electric company and DDOT shall consider the following secondary criteria:

(A) The ability to coordinate the DDOT Electric Company Infrastructure Improvement Activities with DDOT roadwork and other projects that involve disruption to and subsequent restoration of road surface or otherwise impede the flow of traffic along the roadway where the undergrounding work is to occur; and

(B) The estimated economic value or other benefits to be gained by the electric company's customers from the projected reductions in outage frequencies and durations when the Electric Company Infrastructure Improvements are completed; and

(11) For Electric Company Infrastructure Improvement Activity involving a cross-jurisdictional feeder circuit, a showing of the means by which the electric company has

1 storm-hardened its distribution system or has otherwise improved the resilience of service to its
2 District customers on the cross-jurisdictional feeder with respect to major service outage events
3 occurring outside the District's boundaries on the portion of the cross-jurisdictional feeder
4 located outside of the District.

5 (d) Additional content to be included in application by the electric company and
6 DDOT. The electric company and DDOT shall include the following information for the
7 Underground Infrastructure Improvements Project Plan in the application:

8 (1) An itemized estimate of the project plan's Electric Company Infrastructure
9 Improvement Costs and the proposed Underground Project Charges for the costs shown;

10 (2) An itemized estimate of the DDOT Underground Electric Company
11 Infrastructure Improvement Costs;

12 (3) An assessment of potential obstacles to timely completion of a project,
13 including, but not limited to, the need to obtain environmental or other permits or private
14 easements, the existence of historically sensitive sites, required tree removal, and significant
15 traffic disruptions.

16 (4) A description of the efforts taken to identify District residents to be
17 employed by the electric company and DDOT contractors during the construction of the DDOT
18 Underground Electric Company Infrastructure Improvements and the Electric Company
19 Infrastructure Improvements contained in the annual Underground Infrastructure Improvement
20 Projects Plan;

21 (5) An explanation of the availability of alternate funding sources, if any, for
22 relocation of the overhead equipment and ancillary facilities that will utilize DDOT Underground

1 Electric Company Infrastructure Improvements, such as contributions in aid of construction,
2 grant of federal highway or economic development funds, and other sources;

3 (6) An exhibit setting forth the proposed Underground Project Charges,
4 workpapers calculating the derivation of these charges, the proposed allocation of billing
5 responsibility among the electric company's distribution service customer classes for the
6 Underground Project Charges, and a worksheet depicting the projected total expenses; capital
7 costs; depreciation expenses; annual revenue requirement, rate of return on equity, as set by the
8 Commission in the most recently decided rate base case; and allocation of billing responsibility
9 utilized in these calculations. This exhibit is also to include the proposed accounting treatment
10 for the costs to be recovered through these charges, such that no costs recovered through
11 Underground Project Charges will also be afforded rate base or other treatment which would
12 incorporate recovery of Underground Project Charges into the design of the electric company's
13 base tariff rates until such time as the electric company shall request the transfer of these costs
14 into rate base and the discontinuance of the costs being recovered in the Underground Project
15 Charge ;

16 (7) Such other information as the electric company or DDOT concludes may
17 be material to the Commission's consideration of the application;

18 (8) Identification and contact information of one or more individuals who may
19 be contacted by the Commission with formal or informal requests for clarification of any
20 material set forth in the application, or formal or informal requests for additional information;
21 and

22 (9) A proposed form of public notice of the application suitable for
23 publication by the Commission.

1 (e) Waivers. Notwithstanding the primary selection criteria set forth in subsection (b)
2 of this section, the Commission may, on its own motion or upon request by the electric company,
3 OPC, or any other party, waive the application of these criteria as to the selection of a particular
4 mainline primary and lateral feeder when to do so is required to relieve an emergency or to
5 correct or forestall a gross inequity or disparity in the customer impacts associated with past,
6 current or anticipated electric distribution service outages or when actual field conditions or
7 coordination with other projects or such other considerations as the Commission may find
8 reasonable justify modification of selection criteria.

9 (f) Exception. Notwithstanding the foregoing, nothing in this section shall require an
10 electric company to obtain Commission authorization to construct and operate new underground
11 electric plant, or impair the Commission's authority to determine just and reasonable rates with
12 respect to the electric company's recovery of costs associated with the construction and
13 operation of such underground electric plant, including capital costs, when such costs are to be
14 recovered through rates, as approved by the Commission pursuant to paragraph 94 of section
15 8(1) of An Act Making appropriations to provide for the expenses of the government of the
16 District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and
17 for other purposes, approved March 4, 1913 ([37 Stat. 994](#); D.C. Official Code §34-901), and not
18 through the DDOT Underground Electric Utility Infrastructure Improvement Charges or
19 Underground Project Charges.

20 Sec. 309. Consideration of triennial Underground Infrastructure Improvement Projects
21 Plan.

22 (a) Public notice. Before deciding upon an application for an order approving the
23 triennial Underground Infrastructure Improvement Projects Plan, the Commission shall first

1 publish notice to the public of the application and provide for a period of no less than 60 days for
2 public comment and filing of motions to intervene. The electric company shall provide notice of
3 the application to its customers in the District as provided in paragraph 39 of section 8 of An Act
4 Making appropriations to provide for the expenses of the government of the District of Columbia
5 for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes,
6 approved March 4, 1913 ([37 Stat. 983](#); D.C. Official Code § 34-909) as that section may be
7 hereafter amended or superseded.

8 (1) OPC, DDOT and the District each shall be a party to the Commission
9 proceeding on the application, as a matter of right.

10 (2) Any other person desiring to be heard on the application shall file a
11 motion to intervene with the Commission requesting to be made a party to the proceeding. The
12 applicant and any party to the proceeding may file an answer to support or oppose the granting of
13 such motions. The Commission shall, by order, approve or deny the motion at its reasonable
14 discretion.

15 (b) Discovery process. Within 30 days of the effective date of this act, the
16 Commission shall issue an order establishing an expedited discovery schedule that shall be used
17 in all proceedings commenced following the filing of an application for approval of a triennial
18 Underground Infrastructure Improvement Projects Plan pursuant to section 307. The period for
19 discovery shall commence on the date that the application is filed with the Commission and shall
20 continue for 60 days thereafter, provided that the Commission, in its discretion, may toll the time
21 for periods in which it determines that a party has not complied with the discovery rules
22 established pursuant to this section. Any Commission order extending the sixty (60) day
23 discovery time period shall also provide for an extension of equal length to the deadline for

1 public comments on the application. The discovery process established by the Commission
2 pursuant to this section shall provide for submission of information requests and reasonable
3 periods for responses on shortened timelines consistent with the 60-day discovery period and the
4 use of all reasonable procedures for expediting the discovery process, such as discovery
5 conferences. The discovery process shall: (i) permit parties to such proceedings to inspect all
6 relevant data, documents, studies, analyses, and workpapers that form the basis of the triennial
7 Underground Infrastructure Improvement Projects Plan and any revenue requirements or charges
8 provided therein; and (ii) afford parties the rights provided under Chapter 1 of Title 15 of the
9 District of Columbia Municipal Regulations, as that Title may be amended from time to time, in
10 a manner consistent with the expedited discovery process.

11 (c) Commission decision. The Commission shall decide upon an application for an
12 order approving a triennial Underground Infrastructure Improvement Projects Plan based upon
13 the pleadings in the matter and, if no protests or objections are filed in response to the
14 Commission's public notice of the application then, at its discretion, without a hearing. A formal
15 evidentiary hearing shall be required if contested issues of material fact are present and those
16 issues cannot be resolved by the Commission on the basis of the pleadings and discovery
17 responses, if any, filed in the record of the matter. The Commission shall, in addition to any
18 other hearing or procedures, convene a public community hearing in order to receive the
19 testimony and comments of the public. In its decision, the Commission may approve, approve
20 with conditions, or reject the application in whole or in part, as it deems necessary and
21 appropriate.

22 (d) Expedition. The Commission shall expedite its consideration of applications
23 seeking an order approving a triennial Underground Infrastructure Improvement Projects Plan.

1 The Commission shall issue its decision on the application no later than 45 days following the
2 deadline for public comment on the application; provided, however, that if a protest or objection
3 to the application is timely filed with the Commission and can be resolved without an evidentiary
4 hearing, this period for the Commission's decision is extended by an additional 15 days. The
5 computation of this time may be tolled, at the Commission's discretion, for periods in which it
6 determines the electric company and DDOT joint application is deficient. In the event that an
7 evidentiary hearing is required, the hearing shall, in the Commission's discretion and based upon
8 the Commission's evaluation of all relevant factors, commence on the date set by the
9 Commission and be concluded within forty five (45) days after the close of discovery and the
10 Commission shall issue a decision no more than sixty (60) days following the close of the
11 hearing record.

12 Sec. 310. Commission order.

13 (a) Approval or denial of application and Underground Infrastructure Improvement
14 Projects Plan. Upon making the findings described in subsection (b) of this section, the
15 Commission shall issue an order approving or denying the application and triennial Underground
16 Infrastructure Improvement Projects Plan to authorize the proposed DDOT Underground Electric
17 Company Infrastructure Improvement Activity, Electric Company Infrastructure Activity, and
18 the subsequent imposition of Underground Project Charges. The Commission shall have the
19 authority to impose in its order and to condition the electric company's exercise of the rights
20 granted therein on such reasonable terms and conditions as it determines are required to further
21 the purposes of this act. If the Commission denies all or part of a triennial Underground
22 Infrastructure Improvement Project Plan or related cost recovery, the electric company shall be
23 allowed to recover all prudent and reasonable expenses and costs associated with the

development of the Underground Infrastructure Improvement Projects Plan including preliminary engineering design work required to fulfill the requirements of the application in its Underground Project Charge.

(b) Required findings.

(1) The electric company's application satisfies the applicable requirements of section 308;

(2) The proposed Electric Company Underground Infrastructure Improvements are appropriately designed and located;

(3) The intended reliability improvements will accrue to the benefit of the electric company's customers;

(4) The projected costs associated with the proposed Electric Company Underground Infrastructure Improvement Activity are prudent;

(5) The projected DDOT Underground Electric Company Infrastructure Improvement Costs funded by DDOT Underground Electric Company Infrastructure Improvement Charges are prudent;

(6) The electric company's proposed Underground Project Charges will be just and reasonable; and

(7) Grant of the authorizations and approvals sought by the electric company and DDOT in their joint application is otherwise in the public interest.

(c) In addition to such other terms and conditions deemed necessary and appropriate by the Commission, the Commission order shall include the following:

(1) Authorization for the electric company to impose and collect the Underground Project Charges from its distribution service customers in the District in

1 accordance with the distribution service customer class cost allocations approved by the
2 Commission for the electric company and in effect as of the effective date of this act: provided,
3 however, that no such charges shall be assessed against customers served under the electric
4 company's residential aid discount or a succeeding discount program;

5 (2) Authorization for the electric company to bill the Underground Project
6 Charges to customers as a volumetric surcharge;

7 (3) Approval of the annual revenue requirement, which shall include the rate
8 of return on equity as set by the Commission in the most recently decided rate base case, used in
9 calculating the Underground Project Charges;

10 (4) A description of the frequency of project construction update reports for
11 the DDOT Underground Electric Company Infrastructure Improvements funded by DDOT
12 Underground Electric Company Infrastructure Improvement Charges and the Electric Company
13 Infrastructure Improvements as set forth in the triennial Underground Infrastructure
14 Improvement Projects Plan, as approved by the Commission, to be filed by DDOT and the
15 electric company with the Commission and with a copy concurrently served upon OPC.

16 (d) Notwithstanding the foregoing, the Commission shall have no authority to issue
17 any order that would cause the total amount of Electric Company Infrastructure Improvements
18 Costs recovered through Underground Project Charges to exceed Five Hundred Million Dollars
19 (\$500,000,000); provided that such limit would not apply to the recovery of the electric
20 company's rate of return, as approved by the Commission, included in the calculation of the
21 Underground Project Charges. The electric company shall have no obligation to incur Electric
22 Company Infrastructure Improvement Costs in excess of the aggregate amount approved for

1 current recovery through the Underground Project Charge pursuant to one or more final orders of
2 the Commission.

3 Sec. 311. Use of DDOT Underground Electric Company Infrastructure Improvements.

4 (a) Upon completion of construction by DDOT and acceptance by the electric
5 company, the District shall transfer legal title to the DDOT Underground Electric Company
6 Infrastructure Improvements to the electric company for the sum of One Dollar (\$1.00). DDOT
7 Underground Electric Company Infrastructure Improvements shall be for the exclusive use by
8 the electric company. The electric company shall not earn a return on or of investment with
9 respect to the DDOT Underground Electric Company Infrastructure Improvements transferred to
10 the electric company as provided in this section 311. Taxes and fees, if any, on the transfer shall
11 be recoverable by the electric company in rates as approved by the Commission.

12 (b) Section 3302.8 of Title 24 of the District of Columbia Municipal Regulations is
13 amended to insert the following phrase after the word “occupied” “; provided, that the rental fees
14 for such aerial wires that are relocated to conduits or pipes which are DDOT Underground
15 Electric Company Infrastructure Improvements (“ECII Conduit”) transferred pursuant to section
16 312 of the Electric Company Infrastructure Improvement Financing Act of 2013 (“ECIIF Act”)
17 shall, during the time period between the initial and final transfer of ECII Conduit transferred
18 pursuant to section 312 of the ECIIF Act, be charged in the same manner and at the same rate as
19 if they were aerial wires under section 3302.9 and that for the same time period between the
20 initial and final transfer noted above the ECII Conduit shall not be subject to the conduit charge
21 provided for in this section.”

22 Sec. 312. Content of an application to amend an Underground Infrastructure
23 Improvement Projects Plan.

1 An application to the Commission by the electric company and/or DDOT to amend an
2 existing Underground Infrastructure Improvement Projects Plan, approved by the Commission
3 pursuant to section 310, shall describe the purpose(s) to be accomplished by the proposed
4 amendment, the financial impacts, if any, to the electric company's customers that are likely to
5 result from the amendment, if approved, and is to include each item set forth in section 308;
6 provided, however, for good cause shown in its application, the electric company may omit the
7 material required in one more of the items listed in section 308.

8 Sec. 313. Application to amend order authorizing Underground Project Charges.

9 An application to amend an existing Commission order authorizing the electric company
10 to impose and collect Underground Project Charges shall describe the purpose(s) to be
11 accomplished by the proposed amendment, the financial impacts, if any, to the electric
12 company's customers that are likely to result from the amendment, if approved, and shall include
13 each item set forth in section 308(d). The application to amend shall apply only to future
14 Underground Project Charges and any approval of an application shall allow for recovery by the
15 electric company through Underground Project Charges of any prudent and reasonable expenses
16 or costs for any project previously approved by the Commission.

17 Sec. 314. Approval of schedule provisions applying the true up mechanism to DDOT
18 Underground Electric Company Infrastructure Improvement Charge

19 (a) Following the issuance of a series of bonds, the electric company or such other person
20 as may be designated by the Commission, shall file with the Commission, no later than April 1
21 of each year, or more frequently as necessary and as provided in the financing order, a request
22 for approval of a schedule applying the true up mechanism to the DDOT Underground Electric

1 Company Infrastructure Improvement Charges authorized under the financing order, based on
2 factors set forth in the financing order.

3 (b) A request for approval of a schedule filed pursuant to this section shall include, at
4 a minimum, a narrative description of the proposed adjustments, a proposed form of public
5 notice of the request suitable for publication by the Commission and the following exhibits, as
6 applicable:

7 (1) A showing that the allocation of DDOT Underground Electric Company
8 Infrastructure Improvement Charges among the electric company's distribution service customer
9 classes conforms to the distribution service customer class cost allocations approved by the
10 Commission in the electric company's most recent base rate case; provided however, that no
11 such charges shall be assessed against customers served under the electric company's residential
12 aid discount or a succeeding discount program;

13 (2) Billing and collection data that show the proposed adjustment is expected
14 to generate payments that correspond to the DDOT Underground Electric Company
15 Infrastructure Improvement Annual Revenue Requirement;

16 (3) A showing that the proposed adjustment is expected to result in neither a
17 net over-collection nor under-collection of the DDOT Underground Electric Company
18 Infrastructure Improvement Annual Revenue Requirement; and

19 (4) Accounting workpapers showing the electric company's prior year's
20 receipts and disbursements of the DDOT Underground Electric Company Infrastructure
21 Improvement Charges.

1 (c) The Commission's review of a request for approval of a schedule filed pursuant to
2 subsection (a) of this section shall be limited to a determination of whether there is any
3 mathematical error in the application of the true up mechanism to the DDOT Underground
4 Electric Company Infrastructure Improvement Charges.

5 (d) Any interested party may file comments with the Commission with respect to the
6 mathematical accuracy of the electric company's calculations in the application of the true up
7 mechanism within 10 days of the filing of the electric company's request for approval of a
8 schedule applying the true up mechanism to the DDOT Underground Electric Company
9 Infrastructure Improvement Charges. The Commission shall act upon a request for approval of a
10 schedule filed pursuant to subsection (a) of this section within 20 days of the end of the comment
11 period. If the Commission does not act within this 20 day period to correct any mathematical
12 error, the request for approval of a schedule filed pursuant to subsection (a) of this section shall
13 be deemed approved. The DDOT Underground Electric Company Infrastructure Improvement
14 Charges set forth in the schedule shall take effect, subject to refund and adjustment, on the date
15 the schedule is filed with the Commission.

16
17 (e) No schedule applying the true up mechanism to the DDOT Underground Electric
18 Company Infrastructure Improvement Charges that is approved or deemed approved under this
19 section shall in any way affect the irrevocability of the pertinent financing order approved
20 pursuant to section 301.

1
2 Sec. 315. Application for approval of annual adjustment of Underground Project
3 Charges.

4 (a) No later than April 1 of each year following issuance of an order authorizing the
5 imposition and collection of Underground Project Charges and for as long as such order remains
6 in effect, the electric company shall file with the Commission an application for approval of the
7 electric company's proposed adjustment to set the Underground Project Charges until the next
8 proposed adjustment is approved by the Commission, except that the Commission may approve
9 any such adjustment sooner in an order approving a triennial Underground Infrastructure
10 Improvement Projects Plan.

11 (b) Concurrent with filing an application for approval of an annual adjustment that
12 would adjust the level and, if applicable, the allocation between distribution service customer
13 classes of the Underground Project Charges, the electric company shall provide notice to its
14 customers of the application, in the manner provided in paragraph 39 of section 8 of An Act
15 Making appropriations to provide for the expenses of the government of the District of Columbia
16 for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes,
17 approved March 4, 1913 ([37 Stat. 983](#); D.C. Official Code § 34-909).

18 (c) Content of Application. An application filed pursuant to this section shall
19 include, at a minimum, a narrative description of the proposed adjustments, a proposed form of
20 public notice of the application suitable for publication by the Commission and the following, as
21 applicable:
22
23

1 (1) A description of the Electric Company Infrastructure Improvement
2 Activity initiated and/or completed during the previous calendar year, the costs of which are to
3 be recovered through the Underground Project Charges as approved by a Commission order,
4 issued pursuant to section 310;

5 (2) The estimated cost of the Electric Company Infrastructure Improvement
6 Activity;

7 (3) A calculation or re-calculation of the electric company's annual revenue
8 requirement to take into account the effects of accumulated depreciation and changes as to any
9 cost component due to the adoption of new base tariff rates in the prior calendar year as well as
10 any actual or estimated under-collection or over-collection;

11 (4) A demonstration that the Underground Project Charges, authorized
12 pursuant to section 310, are calculated to meet the electric company's annual revenue
13 requirement for Electric Company Infrastructure Improvement Costs;

14 (5) A demonstration that the allocation of Underground Project Charges
15 among the electric company's distribution service customer classes conforms to the distribution
16 service customer class cost allocations approved by the Commission in the electric company's
17 most recent base rate case; provided however, that no such charges shall be assessed against
18 customers served under the electric company's residential aid discount or a succeeding discount
19 program;

20 (6) The period of time over which the Underground Project Charges are to be
21 collected; and

22 (7) Accounting workpapers showing the electric company's prior year's
23 receipts and disbursements of Underground Project Charges.

1 (d) Protests.

2 (1) Protests may be filed in opposition to the electric company's application to
3 adjust the Underground Project Charges within 10 days of the publication of the public notice.
4 However, protests shall be limited to the proposed adjusted Underground Project Charge and
5 materials submitted in support thereof, and whether the proposed adjustment is consistent with
6 the underlying order authorizing the imposition and collection of Underground Project Charge,
7 as most recently approved by the Commission. Protests shall not challenge the scope and
8 composition of the Electric Company Infrastructure Improvement Activity unless, and only to
9 the extent that, changes in the scope and composition of the Electric Company Infrastructure
10 Improvement Activity are proposed in the application to adjust the Underground Project Charges
11 submitted pursuant to this section.

12 (2) If a timely protest is filed objecting to the proposed adjustment of the
13 Underground Project Charges, the Commission shall rule upon the protest no later than 20 days
14 from the date of the publication of the public notice.

15 (e) Effective date. The proposed adjusted Underground Project Charges shall take
16 effect, subject to refund and adjustment, on the date of filing with the Commission. Should no
17 objection be timely filed, or having been timely filed, is denied by the Commission, the
18 proposed charges shall become final and no longer subject to refund or adjustment on the date
19 for a final decision set forth in subsection (f), unless the Commission rules otherwise before such
20 date.

21 (f) Commission decision.

1 (1) The Commission shall decide upon an uncontested annual adjustment
2 application within 45 days from the date filed. In the event a protest is filed, the time for the
3 Commission's decision is extended by 30 days.

4 (2) The Commission's decision in an annual adjustment proceeding shall not
5 re-open or otherwise serve to amend, modify or otherwise alter in any fashion a previously
6 issued order authorizing the imposition and collection of Underground Project Charges or
7 amendments thereto.

8 SUBTITLE C. EXPEDITION; RECONSIDERATION; JUDICIAL REVIEW; REVIEW
9 AND ANALYSIS.

10 Sec. 316. Expedition.

11 The Commission shall expedite its consideration of applications pursuant to sections 308,
12 312, 313, and 315 of this act. In proceedings to consider such applications, the Commission's
13 decision is to issue no later than 120 days following closing of the period for public comment
14 upon the application; provided, however, that if a protest or objection to the application is timely
15 filed with the Commission, this period for the Commission's decision is extended by 45 days.
16 When calculating the time required to issue its decision, the Commission may omit any time
17 interval for which it has determined the application to be deficient and in which a formal request
18 for material to cure that deficiency was pending.

19 Sec. 317. Reconsideration of Commission orders.

20
21 The Commission shall, within 120 days from enactment of this act, amend its rules of
22 practice and procedure to establish rules to expedite the reconsideration of any Commission
23 order that will be issued to decide a matter put before it pursuant to title III of this act.

24 Sec. 318. Judicial review of Commission orders.

1 A financing order, an order approving an Underground Infrastructure Improvement
2 Projects Plan, an order amending an Underground Infrastructure Improvement Projects Plan, or
3 an order approving an annual adjustment to the Underground Project Charges are each a final
4 order of the Commission. Any party aggrieved by the issuance of any such Commission order
5 may apply to the Commission for reconsideration of the order in accordance with paragraph 64
6 of section 8 of An Act Making appropriations to provide for the expenses of the government of
7 the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen,
8 and for other purposes, approved March 4, 1913 ([37 Stat. 988](#); D.C. Official Code §34-604) and,
9 thereafter, appeal to the District of Columbia Court of Appeals in accordance with paragraphs
10 65, 66, 67, 69, and 69a of section 8 of An Act Making appropriations to provide for the expenses
11 of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen
12 hundred and fourteen, and for other purposes, approved March 4, 1913 ([37 Stat. 989](#); D.C.
13 Official Code §§34-605-609). The Court of Appeals shall proceed to hear and determine the
14 appeal as expeditiously as practicable and give the appeal precedence over other matters not
15 accorded similar precedence by law.

16 Sec. 319. Review and Analysis.

17 (a) Reports.

18 (1) By December 31, 2019, the Mayor, the Commission, the OPC, and the
19 electric company shall issue a joint written report to the Council that:

20 (A) Evaluates the effectiveness of the DDOT Underground Electric
21 Company Infrastructure Improvement Activity and the Electric Company Infrastructure
22 Improvement Activity in improving the reliability of electric power distribution service and
23 reducing the frequency of electric power outages;

1 (B) Evaluates the impact of the DDOT Underground Electric Company
2 Infrastructure Improvement Activity and the Electric Company Infrastructure Improvement Activity
3 on tree canopy;

4 (C) Evaluates the impact of the DDOT Underground Electric Company
5 Infrastructure Improvement Charges and the Underground Project Charges on the electric
6 company's residential customers weighing the cost implications of the Underground Project Charge
7 compared to the savings to the customers from improved reliability and the cost reductions from
8 reducing overhead line maintenance and vegetation management;

9 (D) Provides recommendations regarding whether the Council should
10 authorize the issuance, sale and delivery of bonds at an amount above the limit set forth in
11 Section 202(a) of this act; adjust the limit of the electric company's investment to be recovered
12 through the Underground Project Charges; and expand the undergrounding of feeders to include
13 all or a portion of the remaining overhead mainline primary and lateral feeders or other
14 alternatives such as to begin full undergrounding of feeders pursuant to amended selection
15 criteria, relative to the primary and secondary selection criteria which is set forth in Section
16 310(b) and (c).

17 (2) By December 31, 2027, the Mayor, the Commission, the OPC, and the
18 electric company shall issue a joint written report to the Council that:

19 (A) Evaluates the effectiveness of the DDOT Underground Electric
20 Company Infrastructure Improvement Activity and the Electric Company Infrastructure
21 Improvement Activity in improving the reliability of electric power distribution service and
22 reducing the frequency of electric power outages;

1 (B) Evaluates the impact of the DDOT Underground Electric Company
2 Infrastructure Improvement Activity and the Electric Company Infrastructure Improvement Activity
3 on tree canopy;

4 (C) Evaluates the impact of the DDOT Underground Electric Company
5 Infrastructure Improvement Charges and the Underground Project Charges on the electric
6 company's residential customers weighing the cost implications of the Underground Project Charge
7 compared to the savings to the customers from improved reliability and the cost reductions from
8 reducing overhead line maintenance and vegetation management;

9 (D) Provides recommendations regarding whether the Council should
10 authorize the issuance, sale and delivery of additional bonds; adjust the limit of the electric
11 company's investment to be recovered through the Underground Project Charges; expand the
12 undergrounding of overhead feeders to include the secondary lines pursuant to new primary and
13 secondary selection criteria to be established at that time; and expand the undergrounding of
14 overhead feeders to include all secondary and service electric power lines and the removal of
15 associated poles.

16 (3) The reports required by paragraphs (1) and (2) of this subsection shall
17 include any separate statements of the Mayor, the Commission, the OPC, or the electric company
18 that the Mayor, the Commission, the OPC, or the electric company requests be included in a
19 report.

20
21 (b) Public hearings. The Council shall conduct a community briefing and public hearing
22 in each quadrant of the District regarding the reports, findings and recommendations that were
23 filed pursuant to subsection (a) of this section within 90 days of the filing of such reports.

1 TITLE IV. COMMISSION AND OPC FUNDING; COMMISSION RULES AND
2 REGULATIONS; FISCAL IMPACT STATEMENT; SEVERABILITY; EFFECTIVE DATE

3 Sec. 401. Commission and OPC funding.

4 The costs to be incurred by the Commission and the OPC, respectively, with respect to
5 the implementation, administration and enforcement of this act and any proceedings thereunder
6 constitute expenses that are recoverable from the Public Service Commission Agency Fund and
7 the Office of People's Counsel Agency Fund, as provided by paragraph 42 of section 8 of An
8 Act Making appropriations to provide for the expenses of the government of the District of
9 Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other
10 purposes, approved March 4, 1913 ([37 Stat. 984](#); D.C. Official Code §34-912). For the purpose
11 of funding the participation of OPC in the proceedings provided for by this act and in light of the
12 expedited nature of those proceedings, it is necessary to ensure that OPC has available at the
13 commencement of those proceedings the funds necessary for its participation in those
14 proceedings. In order to effect this result, any proceedings for which a commencement date or
15 timeline is specified by this act shall be deemed to begin for purposes of paragraph 64(a)(2) of
16 section 8 of An Act Making appropriations to provide for the expenses of the government of the
17 District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and
18 for other purposes, approved March 4, 1913 ([37 Stat. 988](#); D.C. Official Code §34-912(a)(2)) no
19 less than sixty (60) days prior to the date specified by this act for commencement of such
20 proceedings.

21 Sec. 402. Commission rules and regulations.

22 Nothing in this act shall be construed to limit the Commission's authorization under
23 paragraph 97(b) of section 8 of An Act Making appropriations to provide for the expenses of the

1 government of the District of Columbia for the fiscal year ending June thirtieth, nineteen
2 hundred and fourteen, and for other purposes, approved March 4, 1913 ([37 Stat. 995](#); D.C.
3 Official Code § 34-802) to adopt rules and regulations consistent with the provisions of this act.

4 Sec. 403_ Waiver of certain permitting fees; acceptance of bonds in lieu of cash deposits.

5 (a) A Public Inconvenience Fee and steel plate fee shall not apply to Electric
6 Company Infrastructure Improvement Activity for the first 60 days of construction and
7 installation of Electric Company Infrastructure Improvements in the applicable portion or
8 segment of the public space or public right of way where the Electric Company Infrastructure
9 Improvements are being constructed and installed.

10 (b) The electric company may submit a bond to DDOT in lieu of a cash deposit for
11 any Electric Company Infrastructure Improvement Activity that is subject to a public space
12 permit.

13 Sec. 404. Fiscal impact statement.

14 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal
15 impact statement required by section 602(c)(3) of the Home Rule Act, approved December 24,
16 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

17 Sec. 405. Severability.

18 As provided in the General Rule of Severability Adoption Act of 1983, effective March
19 14, 1984 (D.C. Law § 5-56; D.C. Official Code § 45-201), if any provision of this act or the
20 application of this act to any person or circumstance is held to be unconstitutional or beyond the
21 statutory authority of the Council, or otherwise invalid, the invalidity of such provision shall not
22 affect other provisions or applications of the act that can be given effect without the invalid
23 provision or application, and to this end the provisions of this act are declared to be severable.

1 Sec. 406. Effective date.

2 This act shall take effect following approval by the Mayor (or in the event of veto by the
3 Mayor, action by the Council to override the veto), and a 30 day period of Congressional review
4 as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental
5 Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02
6 (c) (2)), and publication in the District of Columbia Register.